ANDA 75-011 May 23, 2000

ESI Lederle
Attention: Nicholas C. Tantillo
401 N. Middletown Road
Pearl River, NY 10965-1299

Dear Sir:

This is in reference to your abbreviated new drug application dated July 9, 1998, submitted pursuant to Section 505(j) of the Federal Food, Drug, and Cosmetic Act (Act), for Buspirone Hydrochloride Tablets USP, 5 mg, 10 mg, and 15 mg.

Reference is also made to the tentative approval letters issued by this office on December 22, 1998 and September 17, 1999, and to your amendment dated March 17, 2000 requesting that final approval be made effective May 22, 2000.

We have completed the review of this abbreviated application as amended and have concluded that based upon the information you have presented to date, the drug product remains safe and effective for use as recommended in the submitted labeling. However, the application remains **tentatively approved**. This determination is based upon information available to the Agency at this time, (i.e., information in your application and the status of current good manufacturing practices (CGMPs) of the facilities used in the manufacture and testing of the drug product), and is subject to change on the basis of new information that may come to our attention.

The reference listed drug product (RLD) upon which you have based your application, BuSpar Tablets of Bristol Myers Squibb Co. Pharmaceutical Research Institute (BMS), is currently subject to periods of patent protection which were due to expire on May 22, 2000, (U.S. Patent No. 4,182,763, the ‘763 patent) and May 14, 2008, (U.S. Patent No. 5,015,646, the ‘646 patent). Your application contains

a Paragraph IV Certification to the ‘646 patent under Section 505(j)(2)(A)(vii)(IV) of the Act stating that your commercial manufacture, use, or sale of this drug product will not infringe on this patent. You have notified the Agency that ESI Lederle (Lederle) has complied with the requirements of Section 505(j)(2)(B) of the Act and that no legal action regarding the '646 patent was brought against Lederle within the statutory forty-five day period. In addition, your application contains a Paragraph III Certification to the ‘763 patent under Section 505(j)(2)(A)(vii)(III) of the Act stating that you will not market this drug product prior to the expiration of this patent.

As noted in the current edition of the Agency’s publication entitled “Approved Drug Products with Therapeutic Equivalence Evaluations”, the “Orange Book”, the ‘763 patent was scheduled to expire on May 22, 2000. However, Section 111 of Title I of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act) created Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a). Section 505A permits the sponsor of the new drug application for the RLD to obtain an additional six months of exclusivity if, in accord with the statute, the sponsor submits data previously requested by the Agency relating to the safe and effective use of the drug in a pediatric population. In this case, the RLD holder, BMS, has submitted data to support the use of buspirone hydrochloride in a pediatric population. The agency’s Pediatric Exclusivity Board has determined that the data support the granting of 6 months of exclusivity to the RLD. Consequently, the awarding of this exclusivity will effectively lengthen the life of the two patents referenced above by an additional 6 months. Therefore, final approval of your application may not be made effective pursuant to 21 U.S.C. 355(j)(5)(B)(ii) of the Act until the additional exclusivity period granted to the RLD holder for the ‘763 patent has expired; i.e., November 22, 2000.

To reactivate your application, please submit an amendment at least 60 days (but not more than 90 days) prior to the date you believe your application will be eligible for final approval. This amendment should identify changes, if any, in the conditions under which the product was tentatively approved, and should include updated information such as final-printed labeling, chemistry, manufacturing, and controls data as appropriate. Please note that this amendment should be submitted even if none

of these changes were made. The amendment should be designated clearly in your cover letter as a MINOR AMENDMENT. In addition to this amendment, the Agency may request at any time prior to the final date of approval that you submit an additional amendment containing the information described above.

Failure to submit such an amendment requested by the Agency will prompt a review of the application which may result in rescission of the tentative approval status of your application, or may result in a delay in the issuance of the final approval letter.

Any significant changes in the conditions outlined in this abbreviated application as well as changes in the status of the manufacturing and testing facilities' compliance with current good manufacturing practices (CGMPs) are subject to Agency review before final approval of the application will be made.

Please note that this drug product may not be marketed without final Agency approval under Section 505 of the Act. The introduction or delivery for introduction into interstate commerce of this drug product before the final approval date is prohibited under Section 501 of the Act and 21 U.S.C. 331(d). Also, until the Agency issues the final approval letter, this drug product will not be deemed approved for marketing under 21 U.S.C. 355 and will not be listed in the "Approved Drug Products with Therapeutic Equivalence Evaluations" list (the "Orange Book"), published by the Agency. Should you believe that there are grounds for issuing the final approval letter prior to November 22, 2000, you should amend your application accordingly.

At the time you submit any amendments, you should contact Ms. Elaine Hu, R.Ph., Project Manager, at (301) 827-5848, for further instructions.

Sincerely yours,

Gary Buehler
Acting Director
Office of Generic Drugs
Center for Drug Evaluation and

Research